

DEFENDER ASSOCIATION OF PHILADELPHIA

1441 Sansom Street
Philadelphia, PA 19102
(215) 568-3190

KEIR BRADFORD-GREY
CHIEF DEFENDER

September 17, 2019

24TH DISTRICT BICYCLE PATROL BODY WORN CAMERA REVIEW

Review Summary

The Defender Association performed a review of the use of body worn cameras used by Philadelphia Police Department (PPD) officers in the 24th district who are generally under the supervision of Sgt. Michael Spicer.¹ A total of 60 investigations from March of 2018 until April of 2019 were identified. The review found:

- The Defender Association received body worn camera (BWC) videos from the District Attorney's Office (DAO) for every officer who appeared in the videos in only one investigation.
- The officers fail to activate their cameras to capture the beginning of the pedestrian stop. In only six of the sixty investigations did BWC video capture the incident before the officers placed people in handcuffs. Only one video, from the very first incident, included all officers present at the beginning of the incident activating their cameras before people were placed in handcuffs. Four of those six investigations occurred when the buffer length² was 30 seconds and within the first four months that the officers were utilizing BWC's. When the buffer length was extended to 60 seconds, the officers got worse at capturing the beginning of pedestrian stops, despite having more experience and more leeway due to the longer buffer.
- In nineteen of the sixty investigations, at least one person was stopped and detained by police who did not appear in the police paperwork, including seventeen investigations that we could verify never resulted in a 75-48A being completed for those additional

1 The Defender Association chose to review this group of officers because of the large number of complaints received from our clients involving this unit, individual BWC video and external video we previously reviewed through the representation of our clients that signaled a pattern of concerning behavior, the fact that one of their former members, James Yeager, has been arrested after being caught on video physically abusing a client, and that this squad is overseen by Sgt. Spicer, an officer that we believe has been on the DAO's "do not call" list since the Seth Williams administration.

2 The buffer length refers to the amount of time a camera records before the officer presses the record button. The BWC's allow the department to set the cameras to record for a specific period of time that loops over itself until the record button is pressed. There is no sound during the buffer period.

people stopped for investigation. This failure to fill out required paperwork suggests the officers may be underreporting their pedestrian stop numbers in violation of police policy and the Bailey Federal Consent Decree. Approximately 31 people were stopped for investigation but did not appear in the police paperwork³.

- Officers consistently fail to make complete recordings of stops and arrests. Officers regularly activated and deactivated their BWC after the incident began but before the person was placed in a patrol vehicle for transport.
- BWC video lasting three minutes or less appear in 33 of the 60 investigations with many near or under one minute in length.
- Buffer lengths for BWC's were not consistent for all officers, ranging from 0 to 60 seconds during the same investigations.
- The Defender Association received Evidence Audit Trails for just 20 of the 60 investigations reviewed.

Review Parameters

Anecdotal evidence led the Defender Association to review these investigations to determine whether officers were routinely following police directives for operating BWC's, properly following police directives concerning the documentation of citizens subject to pedestrian stops, and/or filing fabricated or misleading police paperwork in client arrests.

The Defender Association identified the officers who regularly worked under Sgt. Michael Spicer as bike patrol officers from March of 2018 until April of 2019.⁴ These officers received BWC's in March of 2018. The officers were identified by reviewing discovery and BWC video to determine which officers appear in paperwork and video together at least four times. Ultimately 60 investigations involving 12 total officers (listed below with their badge numbers) were identified:

1. Sgt. Michael Spicer #8510
2. Officer Ryan Babcock #6130
3. Officer Stewart Mills #6118
4. Officer Patrick Clark #9909
5. Officer Daniel Cosme #1516
6. Officer John Bradbury #1879
7. Officer James Saxton #2142
8. Officer William Gress #4702
9. Officer Casey Galazaka #9337
10. Officer Jason Frye #4195

³ Police paperwork refers to the documents prepared for a person arrested such as a PARS or passed in discovery for the person ultimately arrested and charged with an offense but does not include the 75-48A investigation form.

⁴ Although these officers generally patrol on bicycles a few of the identified investigations stem from officers on marked vehicle patrol.

11. Officer Edward Thompson #7408
12. Officer Michael Lombardi #4182

Most investigations that were reviewed involved incidents that occurred prior to March 1, 2019 because of the difficulty in obtaining BWC in any more recent cases. Any cases that went through diversion or were resolved before the 2nd trial date were not reviewed because BWC was generally not received in those situations.

The Defender Association does not regularly receive BWC video before the first trial date, which usually occurs 60 days after the person's arrest in misdemeanor arrests. It is more likely that the Defender Association will receive BWC video after the 2nd trial listing which usually occurs approximately 90 days after the person's arrest. BWC video for felony cases is usually not received until after the first trial listing which occurs at least 70 days after the person's arrest. It should be noted that, according to police policy, BWC video not tagged to be preserved disappears after 75 days.

Working within the above parameters, the Defender Association attempted to identify every investigation involving the 12 officers where BWC video was obtained. The discovery or PARS and the video for each investigation was reviewed. The Defender Association tracked the following information for each investigation⁵:

- Defendant's name
- Arrest date
- DC number
- The officers who appear in the police paperwork
- Number of officers that appear in the BWC videos
- The number of people stopped who are not specifically identified in the police paperwork or pedestrian and vehicle stop data.⁶
- The number of BWC videos received
- Whether any video starts recording before the person is stopped
- Whether any video starts recording before the person is placed in handcuffs
- The length of the longest video
- The length of the shortest video
- Whether the PARS mentions if the BWC video was turned on
- Whether the arrest was police initiated or a call for service
- Whether the use of BWC was mentioned in any other discovery
- Whether video was received for every officer that appears in the videos that were passed
- The buffer length for each BWC video that was received
- Whether evidence audit trails were received for any video in each case

⁵ A spreadsheet of the findings will be provided to the PPD and the DAO.

⁶ The number of people stopped but not documented was determined by reviewing the BWC videos and cross-referencing the people identified in the police paperwork for an individual arrested and, for investigations occurring prior to October of 2018, cross-referencing pedestrian stop data the Defender Association receives from the City that includes data fields that describe the date, time, location, description, officer involved, and stop narrative of every pedestrian and vehicle stop from 2014 until September of 2018.

The review of the 60 investigations included nearly 150 individual videos. Video lengths ranged from 10 seconds total to 24:02 minutes total. The officers working on bicycle patrol regularly traveled in groups of three to six officers.

Review Outcome

Failure to follow PPD Directive 4.21

The vast majority of investigations showed the people stopped by police were already in handcuffs when the videos began recording. The overall policy delineated in PPD Directive 4.21 states that:

Officers shall place and maintain their BWC in “Stand-by” mode immediately after receiving them at the beginning of the tour. BWCs will be activated prior to responding to all calls for service, during all law enforcement related encounters, and during all activities involving the general public.

The directive continues by listing examples when officers *shall* activate the cameras which include:

- When initiating any vehicular or foot pursuit;
- When conducting any vehicle or pedestrian investigation;
- When initiating a sight arrest or citation;

Finally, the directive makes clear that the officers are not to stop recording until they have been placed back in service by police radio, meaning once the arrest or investigation has concluded:

... once a BWC has been activated, it shall remain activated until the event has concluded and the officer has been placed back into service by Police Radio. In the event that the BWC is to be deactivated prior to the conclusion of the event, the officer shall state, aloud, the reason why it is being turned off.

In only six investigations did at least one officer manage to activate their camera before stopping a person or placing them in handcuffs. Each BWC is equipped with a buffer period which captures video but not audio anywhere from zero to sixty seconds before the officer activates the camera to record. Generally, the buffer length was either 30 or 60 seconds. If the beginning of an incident was not captured on video this means that the officer did not activate their camera within 30 or 60 seconds of making the stop of the person.

In the review of the 60 investigations Officers Clark, Babcock, Frye, Lombardi, Galazaka, and Saxton never activated their cameras before stopping a person. Officers Cosme, Bradbury and Mills only did so once. Officer Gress and Sgt. Spicer did so twice. Officer Thompson did so three times. The only investigation where every video started before the person was stopped occurred in March of 2018, the first month these officers were given body worn cameras. Case #3, detailed below, illustrates the problem very clearly. A group of officers set up around the corner of a tent encampment before moving in and detaining people. Only one officer, Gress, turned on his camera once he arrived at the

encampment despite biking for 25 seconds from the set-up point.

What's important to note is that of the six instances where at least one of the officers activated their camera before stopping the person in question, four occurred in July of 2018 or earlier. During this time the buffer length of the officers' cameras was almost always 30 seconds. Starting in November of 2018 video buffers were usually around 60 seconds long. Yet, only two investigations after November of 2018 include video where the officers activated at least one of their cameras before the pedestrian stop.

This is concerning for two reasons. First, one would expect that the longer the officers use BWC's, the better they would get at activating their cameras at the proper time. It is striking that the first investigation the Defender Association could identify is the only one where each officer manages to activate their cameras correctly to capture the beginning of the pedestrian stop. But the review also shows that not only did the officers get worse at activating their cameras before making a pedestrian stop but that they seemed to have taken into account the longer buffer period to ensure that the beginning of the pedestrian stop is still not captured on video. The longer buffer period gives the officers more time to activate their cameras to capture the beginning of an incident. Yet they only manage to do so in two investigations that occurred after the buffer period was lengthened.

The Defender Association also observed officers regularly turn their cameras on and off in the middle of investigations despite the directive stating officers should keep their cameras activated for the entirety of the investigation.⁷ This led to wildly disproportionate video lengths in many investigations. For example, Case #8 included BWC videos where the longest was 21:32 minutes while the shortest was just 57 seconds. Case #21 included BWC videos where the longest was 12:24 minutes and the shortest was 1:25 minutes. Case #23 included BWC videos where the longest was 14:18 minutes and the shortest was just 1:19 minutes. Case #3, which was detailed above included Gress' video lasting 20:58 minutes while the shortest was 9:10 minutes. As noted below, only Gress' video showed the stop of three people who were placed in handcuffs but not documented in any police paperwork or on a 75-48A.

Failure to document pedestrian stops

The review also raises significant concerns that these officers are manipulating their pedestrian stop numbers by failing to document people detained in accordance with PPD directives and the Bailey consent decree. Many videos showed people that were stopped, placed in handcuffs, and/or searched but were not documented in the discovery by the police or on 75-48A's. PPD directives state that if a person is detained for investigation, frisked, and/or searched, then it should be documented on a 75-

⁷ It should be noted that the directive does allow some exceptions for the officers to deactivate their cameras during an investigation: 1. When interacting with crime victims, witnesses, or informants, who request to not be recorded, officers shall use discretion in deciding whether to deactivate the BWC and shall balance the value of capturing such recording against the reluctance of the victim, witness, or informant; 2. When the recording would capture gruesome images, or when private areas of the human body are exposed and there is no legitimate law enforcement need to capture the images.; 3. When entering a religious institution, during services.; 4. When entering a hospital room or private patient area in a hospital.; 5. When a crime scene has been established and officers have been placed on post to safeguard the scene. None of these exceptions applied in any video the Defender Association viewed.

48A pedestrian/vehicle investigation form.⁸ The Defender Association definitively determined whether 75-48A's were produced in all 60 investigations. As noted above, at least 31 people were stopped in nineteen different investigations but were not documented in any police paperwork, including on a 75-48A but were stopped, asked for identification, placed in handcuffs, and/or searched by the police.⁹

Failure to include all officers in the police paperwork

The BWC videos regularly showed officers who were present and participating in the stop, search, and arrests of people but who did not appear in the police paperwork. Sgt. Spicer appeared in nearly all of the videos but was documented in the police paperwork only nine times and never as the lead officer. Female officers were often used to search female suspects but were not documented in the paperwork. BWC videos were often received by these officers even though they did not appear in the paperwork. Because of the failure to activate the BWC's according to police directive it was often difficult to determine which officers initiated the stops and searches. However, many BWC videos showed Sgt. Spicer searching or directing the searches of people stopped despite these individuals not appearing in police paperwork.

Evidence Audit Trails

Evidence Audit Trails (EAT's) are rarely included with the body worn camera video and are of limited use. EAT's can tell which officer was assigned to which camera, when it was uploaded, when it was viewed and by whom, and what arrest it has been tagged for. Separate EAT's are given for each video. So, if an officer turns the camera off and turns it back on, there will be two videos and two EAT's.

The Defender Association received EAT's from the DAO in only 20 of the 60 investigations that were reviewed. EAT's do not tell the complete history of that officer's BWC use for the time period during an arrest because each EAT is tied to a specific recording. BWC video is preserved when an officer tags the video to be saved. If the video is not tagged for preservation the system automatically deletes the video. According to PPD Directive 4.21 BWC video that has not been tagged will exist for 75 days when it will be automatically deleted from their system. As far as the Defender Association is aware, if an officer fails to tag a recording for preservation, and the video clip is automatically deleted, there is no way for the District Attorney to know whether any other videos ever existed and there is no way for the Defender Association to determine whether any video has not been passed or was not preserved by looking at a single EAT. An EAT from an officer for the entire shift is needed to know whether any video was deleted or not passed through discovery.

Given that the Defender Association almost never receives BWC video prior to 70 days after the arrest and the routine failure to include all videos from an investigation the 75-day retention period should be at least tripled in length to ensure that untagged videos are not being erroneously deleted.

⁸ See PPD Directive 12.08 and 12.11

⁹ Not appearing in regular discovery is defined as either the officer failed to mention the person at all in police paperwork or the person was described vaguely but not identified, let alone noted as being stopped or searched.

Cases of note

Case #1: All three officers activated their cameras before or while stopping two males. The officers claimed they observed male #1 taking items from a cigarette box in a pinching motion which was not consistent with buying a cigarette but with buying narcotics. Male #2 told the police male #1 wanted a cigarette. Officers claimed they saw male #1 drop items consistent with narcotics. Both males are fully searched but only male #1 is arrested. Male #2 is not identified or documented but is mentioned as “another w/m [white male] (not arrested but stopped by [Officer] Cosme)” in male #1’s arrest paperwork.

Case #3: At least six bike patrol officers set up around the corner from a tent encampment underneath the railroad tracks. Only one officer turned on his camera before they started biking towards the encampment. Three people were immediately stopped at the top of the encampment and placed into handcuffs. Initially, four to five officers focused on this area while one continued to ride down the street. None of the people stopped and handcuffed in this area were ultimately arrested. Officer Lombardi claimed in the police paperwork that he observed male #1 with a baggie consistent with narcotics in his hand as he sat on a milk crate. This is not caught on camera as Lombardi did not turn on his camera before coming into contact with this male and this male was stopped much farther down in the encampment from the initial three people stopped and handcuffed. However, male #1 is seen standing behind a tent set between the street and the wall of the railroad tracks. At least one other person was asked for information near where this male was stopped. There were two people sitting next to the male that was stopped. It seems likely that both of these people were asked for information but the video but that was not captured on any of the video. A male and a female in a tent near where this male was stopped were asked for their information and are the only people documented from this investigation. None of the people in the videos appear in the arrest report for male #1.

Case #5: The officers claimed in police paperwork that they saw male #1 with a roll of money inside a tent under the railroad tracks. When officers approached male #1 he allegedly hid a bag consistent with narcotics. Female #1 was in the tent with him. When the BWC video started male #1 and another male were in handcuffs. Three females were seated next to them without handcuffs. All five people were surrounded by officers and their patrol bikes while a tent was searched. One female was asked for her information and the second male and all three females were allowed to leave. Only one 75-48A form was completed for the second male who was not arrested.

Case #11: The officers claimed they saw an object passed between male #1 and male #2. Sgt. Spicer’s camera captured the interaction but it was too blurry to make a determination on whether anything was passed. Male #1 was walking towards the officers into an alley they were traveling in while male #2 was at the corner of the alley and the street. Sgt. Spicer rode into the street and saw male #3 walk from the side of the building where Sgt. Spicer could not see him and out into the street. Sgt. Spicer ordered male #3 to stop and brought him to the side of the building where male #4 was sitting. All four males were placed into handcuffs and searched. Male #1 had a bottle of alleged pills on his person. Male #2 had a bag of alleged marijuana on his person. No money was recovered from anyone. Male #3 and male #4 were not documented in any paperwork, including 75-48A’s. In one of the videos Sgt. Spicer can be heard telling a fellow officer that “we didn’t go through anybody”.

Case #30: Officers claimed they witnessed a narcotics transaction. One of the males ran and was

cornered in an alley. Officer Lombardi stomped on this male in the alley after the cornered male was laying on the ground. Officer Lombardi never turned his camera on. One of his fellow bike officers saw Officer Lombardi stomping on the male when he came around from the other side of the alley where a locked gate cornered the male. His video captured Officer Lombardi stomping the male but the officer whose camera was recording backed away, went back around the corner and turned off his camera. The same officer came back seconds later with the camera turned back on but the video still showed Lombardi stomping on the male as he lay on the ground.

Case #31: Officers claimed male #1 handed an item to male #2 and male #3 had money out to male #2. Male #2 disappeared, male #3 was cleared by investigation, and male #1 was arrested. BWC video shows male #2 was actually permitted to leave after being cursorily searched because the officers did not want to search him for sanitary reasons, contradicting the police paperwork.

Case #47: Officer Babcock's BWC fell off twice but did not stop recording.

Case #60: Officer Saxton testified that he was on marked vehicle patrol with Officer Bradbury when he saw male #1 extend his arm with money in his hand to male #2. Officer Saxton testified he saw this from his patrol car at the corner of an intersection. Next, male #2 accepted the money and extended his hand to male #1 before he looked towards the officers in their vehicle and picked up a broom. The officers stopped both males but before Officer Saxton could touch male #2, he ran. The officers used police equipment to subdue and handcuff male #2. The officers claimed they could not find male #1 because he left the area once male #2 ran. The officers also claimed their BWC's didn't work but no verifying documentation was received. Surveillance and bystander video obtained by the Defender Association showed the male #1 never passed anything to male #2, male #2 never extended his hand back to male #1, and that Officer Saxton searched male #2 for three minutes before grabbing at male #2's private area causing male #2 to run. The officers used an asp, a taser, and Officer Bradbury kned male #2 in the stomach to subdue him. At least 10 additional officers arrived on the scene but no BWC video was ever passed. Male #1 is seen in the video consistently during the incident and remained on scene until all the officers left the location.